representative. The mere statement of such a proposition condemns it. If such were the law, utter confusion and waste would be inevitable and no doubt that is the reason for

Section 8 of the Bankruptcy Act, and

Section 104-3-19, (App. 7), Revised Statutes of Utah, 1933.

Respectfully submitted,

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APPENDIX

(1)

Section 75 (c) of the Bankruptcy Act, 11 U.S.C.A., Section 203:

"At any time prior to March 4, 1944, a petition may be filed by any farmer, stating that the farmer is insolvent or unable to meet his debts as they mature, and that it is desirable to effect a composition or an extension of time to pay his debts. The petition or answer of the farmer shall be accompanied by his schedules. The petition and answer shall be filed with the court, but shall, on request of the farmer or creditor, be received by the conciliation commissioner for the county in which the farmer resides and promptly transmitted by him to the clerk of the court for filing. If any such petition is filed, an order of adjudication shall not be entered except as provided hereinafter in this section."

(2)

Section 75 (n) of the Bankruptcy Act:

"The filing of a petition or answer with the clerk of court, or leaving it with the conciliation com-

missioner for the purpose of forwarding same to the clerk of court, praying for relief under Section 75 of this Act, as amended, shall immediately subject the farmer and all his property wherever located, for all the purposes of this section, to the exclusive jurisdiction of the court . . . "

(3)

Section 75 (n) of the Bankruptcy Act:

". . . In proceedings under this section, except as otherwise provided herein, the jurisdiction and powers of the courts, the title, powers and duties of its officers, the duties of the farmer, and the rights and liabilities of creditors, and of all persons with respect to the property of the farmer and the jurisdiction of the appellate courts, shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the farmer's petition, asking to be adjudged a bankrupt, was filed with the clerk of court or left with the conciliation commissioner for the purpose of forwarding the same to the clerk of court."

(4)

Section 8 of the Bankruptcy Act:

"The death or insanity of a bankrupt shall not abate the proceedings, but the same shall be conducted and concluded in the same manner, so far as possible, as though he had not died or become insane: *Provided*, That in case of death, the bankrupt's right to exemption, if any, shall be preserved, and if the exempt property has not already been set off or awarded to him, it shall upon application be ordered set off and awarded

to the spouse or dependent children surviving at his death to the exclusion of his personal representatives."

(5)

Section 75 (r) of the Bankruptcy Act:

"For the purposes of this section and section 4 (b) the term 'farmer' includes not only an individual who is primarily bona fide personally engaged in producing products of the soil but also any individual who is primarily bona fide personally engaged in dairy farming, the production of poultry or livestock, or the production of poultry products or livestock products in their unmanufactured state, or the principal part of whose income is derived from any one or more of the foregoing operations, and includes the personal representative of a deceased farmer; and a farmer shall be deemed a resident of any county in which such operations occur."

(6)

Section 237 (b) of the Judicial Code, 28 U.S.C.A. Section 344:

"It shall be competent for the Supreme Court, by certiorari, to require that there be certified to it for review and determination, with the same power and authority and with like effect as if brought up by writ of error, any cause wherein a final judgment or decree has been rendered or passed by the highest court of a State in which a decision could be had where is drawn in question the validity of a treaty or statute of the United States; . . . or where any title, right, privilege, or immunity is specially set up or claimed by either party under the Constitution, or any treaty

or statute of, or commission held or authority exercised under, the United States; . . . "

(7)

Section 104-3-19, Revised Statutes of Utah, 1933:

"An action or proceeding does not abate by the death or any disability of a party, or by the transfer of any interest therein, if the cause of action or proceeding survives or continues. In case of the death or any disability of a party, the court, on motion, may allow the action or proceeding to be continued by or against his representative or successor in interest. In the case of any other transfer of interest, the action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding."

(8)

Section 102-11-3, Revised Statutes of Utah, 1933:

"The executor or administrator is entitled to, and must take possession of, all the real and personal estate of the decedent, and shall receive the rents and profits of the real estate until the estate is settled or delivered over by order of the court to the heirs or devisees; and must keep in good tenantable repair all houses, buildings and fixtures thereon which are under his control, and collect all debts due the decedent and to the estate. The heirs or devisees may alone, or jointly with the executor or administrator, maintain an action for the possession of the real estate or for the purpose of quieting title to the same, against any one except the executor or admin-

istrator; but this section shall not be so construed as to require them so to do."

(9)

Section 102-11-4, Revised Statutes of Utah, 1933:

"For the purpose of bringing suits to quiet title, or for partition of the estate, the possession of the executors or administrators is the possession of the heirs or devisees; such possession by the heirs or devisees is subject, however, to the possession of the executor or administrator for the purposes of administration as provided in this title."

(10)

Section 102-11-13, Revised Statutes of Utah, 1933:

"When there is a deficiency of assets in the hands of an executor or administrator, and the decedent in his lifetime has conveyed any real estate, or any rights or interest therein, with intent to defraud his creditors, or to avoid any right of, or debt or duty to, any person, or has so conveyed such real estate that by law the deeds or conveyances are void as against creditors, the executor or administrator must commence and prosecute to final judgment any proper action for the recovery of the same, and may recover for the benefit of the creditors all such real estate so fraudulently conveyed, and may also for the benefit of the creditors sue for and recover all goods, chattels, rights or credits which have been so conveyed by the decedent in his lifetime, whatever may have been the manner of such fraudulent conveyance."

(11)

Section 102-11-12, Revised Statutes of Utah, 1933:

"Whenever a debtor of the decedent is unable to

pay all his debts, the executor or administrator, with the approval of the court or judge, may compound with him and give a discharge upon receiving a fair and just dividend of his effects. A compromise may also be authorized when it appears to be just and for the best interests of the estate.

(12)

Section 102-11-5, Revised Statutes of Utah, 1933:

"Actions for the recovery of any property, real or personal, or for the possession thereof, or to quiet title thereto, or to determine any adverse claim thereon, and all actions founded upon contracts, may be maintained by and against executors and administrators in all cases in which the same might have been maintained by or against their respective testators or intestates."

(13)

General Order 50 in Bankruptcy, 11 U.S.C.A., 1940 Pocket Part, Page 39:

"The personal representative of a deceased farmer who desires in his representative capacity to effect, under Section 75, a composition or extension of the debts of the estate, shall attach to his petition, in lieu of schedules, the following papers, certified as correct by the court which appointed him, (hereinafter referred to as the probate court): (a) a copy of the order of his appointment, (b) a copy of an order of the probate court authorizing him to file the petition . . . "